

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ROBIN M. LEE

## Plaintiff

V.

CLARK COUNTY DETENTION CENTER, et al.,

## Defendants

2:14-cv-01426-JAD-CWH

## **Order Granting in Part Motion to Strike Unauthorized Surreply**

(ECF No. 113)

In this civil-rights action, pro se inmate plaintiff Robin Lee alleges that, while he was detained at the CCDC, the jail ignored a court order to transfer him to the Lake's Crossing facility for a mental competency evaluation, resulting in his wrongful arrest and unconstitutional detention for 85 days before his state-court case was dismissed and he was transferred to federal custody on other charges. Cross-motions for summary judgment are pending.<sup>1</sup> Although the rules of this court permit only a motion, response, and reply brief, Lee filed a “Response to Defendant Las Vegas Metro Police Dept’s Reply (Doc. No. 110) [and] to Plaintiff’s Opposition (Doc. No. 105) to Defendant’s Motion for Summary Judgement (Doc. No. 101).”<sup>2</sup> Defendants move to strike the portion of this brief that qualifies as an unauthorized surreply.<sup>3</sup> Although I decline the request to “strike” the brief under Rule 12(f) because that rule applies only to pleadings, not briefs, I will disregard the unauthorized surreply when evaluating the cross-motions for summary judgment.

## Discussion

The rules of this court do not authorize the filing of a reply to a reply—better known as a “surreply.” In fact, local rule 7-2 states that “Surreplies are not permitted without leave of court” and

<sup>1</sup> ECF No. 101, 104.

<sup>2</sup> ECF No. 112.

<sup>3</sup> ECF No. 113.

1 that “motions for leave to file a surreply are discouraged.”

2 Lee did not seek leave of court before filing his reply to the defendant's reply brief, and I see  
3 no independent basis to permit it. The proper remedy is not to strike this brief under Federal Rule of  
4 Civil Procedure 12(f), however, because that rule only permits the striking of a *pleading*, and this  
5 brief is not a pleading.<sup>4</sup> Nevertheless, to the extent that I can determine which portions of this brief  
6 constitute an unauthorized surreply, those portions will be disregarded in my evaluation of the cross-  
7 motions.

## Conclusion

9           Accordingly, IT IS HEREBY ORDERED that defendants' Motion to Strike Surreply [ECF  
10          **No. 113**] is GRANTED in part; to the extent that the court can determine which portions of this  
11          brief [ECF No. 112] constitute an unauthorized surreply, those portions will be disregarded in the  
12          court's evaluation of the cross-motions for summary judgment.

13 || Dated June 23, 2016.

Jennifer A. Dorsey  
United States District Judge

<sup>27</sup> <sup>4</sup> See Fed. R. Civ. P. 7(a) (defining litigation documents that qualify as pleadings under the  
<sup>28</sup> Rules).